

No 16.

quhile A. B. his predecessor, or by umquhile C. D. his predecessor, and so furth enumerating four or five successive, or by any Abbot of Holyroodhouse whatsoever before them.—It was *alleged* by the defenders, That certification could not be granted on the general clause, but only for such writs as had proceeded from the particular Abbots whose names were libelled.—THE LORDS sustained the general, in respect that they were churchmen, and so of another condition than seculars.

The like was found between the Bishop of Dunkeld and his Vassals, 23^d February 1627.

Spottiswood, (IMPROBATION.) p. 164.

* * Kerse also reports this case :

THE LORDS sustained the general clause of Bishops and Abbots, and their predecessors, without designing of their names and surnames, in an improbation pursued by the Laird of Broughton against Town of Canongate.

Kerse, MS. fol. 206.

* * The same case is mentioned by Haddington :

IN the improbation pursued by Sir William Ballenden against the Town of Canongate, albeit certification was granted against all writs not produced, and the 20th of March only granted for a charter, which the defenders had probable cause to seek ; yet the LORDS, in reasoning amongst themselves, found, that in improbations, the custom was to receive any writs recovered by the defenders before extracting of the act. In that same cause the LORDS found, that Sir William Ballenden had just cause to urge production of feus, tacks, and evidents, granted to the defenders by any Abbot of Holyroodhouse, albeit the Abbot's name was not expressed in the summons, but only the general clause, by whatsoever Abbot.

Haddington, MS. No 2991.

No 17.

1624. February 18. LORD ELPHINSTON *against* The EARL of MARR.

IN the improbation pursued by my Lord Elphinston against the Earl of Marr, *alleged*, The pursuer could not call for improbation of infeftments granted to the Earl of Marr defender, or to his father, because the said infeftments are long posterior to the pursuer's own rights and infeftments, and so cannot prejudice him ; and nothing can come under the compass of improbation but that which may prejudice a party.—*Replied*, He may remove all titles of falsehood, and may improve any evidents whatsoever that may affect his lands.—THE LORDS repelled this exception.

Spottiswood, (IMPROBATION.) p. 167.